

## **REMARKS**

### **I. Introduction**

Claims 11 to 30 are pending in the present application. It is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

### **II. Interview Summary**

Applicants thank the Examiner for the courtesies extended during the telephone interview of August 24, 2005.

The following is a Statement of Substance of Interview of the telephone interview of August 24, 2005.

During the course of the telephone interview no exhibit was shown and no demonstration was conducted.

During the course of the telephone interview claims 11, 18 and 20 were discussed.

During the course of the telephone interview U.S. Patent No. 4,840,829 ("Suzuki et al."), U.S. Patent No. 5,162,074 ("Hills") and U.S. Patent No. 5,783,503 ("Gillespie et al.") were discussed.

During the course of the telephone interview Applicants argued that none of the references cited would render unpatentable claims 11, 18 and 20, as amended herein. Specifically, Applicants argued that none of the references teach a "perforated nonwoven fabric [that] does not exceed 0.60% by weight in relation to the nonwoven weight of the at least one surface-active agent."

During the course of the telephone interview, the Examiner agreed with all of Applicants arguments and stated that claims 11, 18 and 20, as amended, may be allowable. The Examiner indicated, however, that further searching and further review of the cited references would be required.

The general results or outcome of the telephone interview is that an agreement was reached.

### **III. Rejection of Claims 11 to 30 Under 35 U.S.C. § 103(a)**

Claims 11 to 30 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Suzuki et al., Hills and Gillespie et al. Applicants respectfully submit that claims 11 to 30 are allowable for the following reasons.

Claim 11 relates to a perforated nonwoven fabric. Claim 18 relates to a method for producing a perforated nonwoven fabric. Claim 20 relates to a hygiene product. Each of claims 11, 18 and 20 has been amended to recite that the perforated nonwoven fabric does not exceed 0.60% by weight in relation to the nonwoven weight of the at least one surface-active agent. Support for this amendment can be found, for example, in original claim 6.

Suzuki et al. purportedly relate to a nonwoven fabric patterned with apertures. Gillespie et al. purportedly relate to meltspun multicomponent thermoplastic continuous filaments, products made therefrom, and methods therefore. Hills purportedly relates to a method of making plural component fibers. Applicants respectfully submit that the combination of Suzuki et al., Gillespie et al. and Hills does not disclose, or even suggest, a perforated nonwoven fabric that does not exceed 0.60% by weight in relation to the nonwoven weight of the at least one surface-active agent, as recited in amended claims 11 and 20, nor the step of impregnating the perforated nonwoven fabric with at least one surface-active agent, wherein the perforated nonwoven fabric does not exceed 0.60% by weight in relation to the nonwoven weight of the at least one surface-active agent, as recited in amended claim 18. Therefore, the combination of Suzuki et al., Gillespie et al. and Hills does not disclose all of the limitations of amended claims 11, 18 and 20.

In this regard the Specification at p. 9, lines 1 to 19, states as follows:

Ingredients that change the interfacial tension on the microfiber surface may also be subsequently applied after the generation, i.e., release of the microfiber filaments in the already perforated nonwoven. Such substances are, for example, wetting agents in dispersed form or dissolved in water, with which many diaper-cover spunbonded materials are finished for the purpose of better urine management.

However, the nonwoven fabrics of the present invention may not require such wetting agents or may include only a fraction of the conventional application quantity. The development of the perforations, i.e., their hole size, their shape, the arrangement of the individual perforations relative to each other (e.g., staggered or in rows) and the open area, as well as the extremely high suppleness of the segments (area between the perforations) composed of interlaced continuous microfiber filaments and their very low weight allow this reduction in wetting agent up to the point of dispensing with it completely.

In rejecting a claim under 35 U.S.C. § 103(a), the Examiner bears the initial burden of presenting a *prima facie* case of obviousness. *In re Rijckaert*, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). To establish *prima facie* obviousness, three criteria must be satisfied. First, there must be some suggestion or motivation to modify or combine reference teachings. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988).

This teaching or suggestion to make the claimed combination must be found in the prior art and not based on the application disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991). Second, there must be a reasonable expectation of success. *In re Merck & Co., Inc.*, 800 F.2d 1091, 231 U.S.P.Q. 375 (Fed. Cir. 1986). Third, the prior art reference(s) must teach or suggest all of the claim limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). As stated above, the combination of Suzuki et al., Gillespie et al. and Hills fails to disclose, or even suggest, each and every feature of claims 11, 18 and 20. It is therefore respectfully submitted that the combination of Suzuki et al., Gillespie et al. and Hills does not render obvious claims 11, 18 and 20.

Claims 12 to 15, 17 and 28 depend from claim 11 and therefore include all of the limitations of claim 11. Claims 19 and 29 depend from claim 18 and therefore include all of the limitations of claim 18. Claims 21 to 25, 27 and 30 depend from claim 20 and therefore include all of the limitations of claim 20. Therefore, it is respectfully submitted that these dependent claims are patentable over the combination of Suzuki et al., Gillespie et al. and Hills for at least the same reasons provided above in support of the patentability of claims 11, 18 and 20, respectively. *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988) (any dependent claim that depends from a non-obvious independent claim is non-obvious).

#### IV. Conclusion


It is therefore respectfully submitted that all of the presently pending claims are allowable. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

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